

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED
2019 JAN 22 PM 2:15

UNITED STATES OF AMERICA

v.

TIMOTHY PAUL BATURA

DEPUTY CLERK

NO. 6:18-CR-0042-C

FACTUAL RESUME

In support of Timothy Paul Batura's plea of guilty to the offense in Count Two of the Indictment, Batura, the defendant, Jacob Blizzard, the defendant's attorney, and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count Two of the Indictment, charging a violation of 18 U.S.C. §§ 2252A(a)(5)(B) and (b)(2), that is, Possession of Prepubescent Child Pornography, the government must prove each of the following elements beyond a reasonable doubt:¹

- First.* That the defendant knowingly possessed an item or items that contains an image of child pornography involving a prepubescent minor or a minor who has not attained twelve years of age, as charged in the indictment;
- Second.* That the material was mailed, shipped, or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer; and
- Third.* That when the defendant possessed the material, the defendant knew the material contained child pornography involving a prepubescent

¹ Fifth Circuit Pattern Jury Instruction 2.85F (5th Cir. 2015).

minor or a minor who has not attained twelve years of age.

"Child pornography" means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct.

The term "minor" means any person under the age of eighteen years.

"Sexually explicit conduct" means actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; bestiality; masturbation; sadistic or masochistic abuse; or lascivious exhibition of the genitals or pubic area of any person.

STIPULATED FACTS

1. Timothy Paul Batura ("Batura" or "defendant") admits and agrees that from on or about August 17, 2015, through on or about May 11, 2018, in the San Angelo Division of the Northern District of Texas, and elsewhere, he knowingly possessed, or attempted to possess, a Samsung Galaxy Note Edge, Model SM-N915A, bearing serial number R38FC0AWXYZ, containing at least one image of child pornography as defined in 18 U.S.C. § 2256(8)(A), that involved a prepubescent minor, and that was produced using materials that had been mailed or shipped or transported in interstate or foreign commerce by any means, including by computer, in violation of 18 U.S.C. §§ 2252A(a)(5)(B) and (b)(2).

2. On May 11, 2018, Deputies with the Crockett County Sheriff's Office were dispatched to the residence of Batura after receiving a report of sexual abuse of a child. The biological mother of the child reported that she arrived home from work to find her

husband, Batura, in bed with her 12-year-old daughter (“victim”). The mother threw back the covers of the bed and discovered that Batura was spooning the victim and that the victim was wearing only a t-shirt and no underwear.

3. When law enforcement arrived, they interviewed the 12-year-old victim. The victim claimed that she was laying in bed watching videos on her phone when her mother was called to work. After her mother left, Batura entered her bedroom and laid down in bed with her. He then asked her if she wanted to have sex, as he had asked on multiple occasions, and she told him no. After a few minutes of pleading with her, he then penetrated the victim’s vagina with his fingers.

4. According to the victim, Batura would frequently show her sexually-explicit videos. She would not be allowed to leave the room until the victim finished watching the videos. The victim stated that Batura would show her the pornographic videos on his cell phone. The videos were of adults having sex and some were of daughters having sex with their dads. After showing her the videos, he would explain that it was normal for daughters to have sex with their dads. He would then ask her to have sex with him.

5. Batura provided consent for law enforcement to search his cellphone, a Samsung Galaxy Note Edge, Model SM-N915A, bearing serial number R38FC0AWXYZ (“Samsung Galaxy”). A forensic analysis of the Samsung Galaxy uncovered approximately 74,000 pornographic images. Of these images, 34 images were identified as prepubescent child pornography. Four of the images are described as follows:

- (redacted)1454b91ab14_0_embedded_1.jpg is described as an image of a prepubescent female child's vagina open with a man's erect penis penetrating it.
- (redacted)2a7512daba582_0_embedded_1.jpg is described as an image of a prepubescent female with pink colored socks on, bent over on her hands and knees, exposing her vagina and buttocks as an adult man is penetrating her vagina with his erect penis.
- (redacted)57798de26c2ca0_0_embedded_1.jpg is described as an image of a prepubescent female child standing with her legs spread open and the end of a hair brush inserted in her vagina.
- (redacted)4ca4049d471d0_0_embedded_1.jpg is described as an image of two young girls, approximately 8 or 9 years of age, licking and sucking a man's erect penis.

Defendant admits and agrees that these images were prepubescent child

pornographic images that he knowingly downloaded onto his Samsung Galaxy from the internet.

6. Forensic analysts also found various internet search terms on the Samsung Galaxy. The terms included: "daddy's girl," "daddy fucking his little girl on cam," incest," "all in the family," "daddy's weakness," "brother/sister," "dad daughter roleplay," and "brother sister incest." ~~He also visited websites on his Samsung Galaxy such as "18&abused," "possiblyraped," and "real sibling strip poker."~~ JB X

7. On October 16, 2018, defendant again agreed to speak with law enforcement. He initially admitted to visiting the "deep web" and using the "onion browser" to look for post-pubescent pornography but feared getting caught. Defendant admitted to finding child pornography on the "clear web" via message boards. ~~He further admitted that he could hypothetically see himself having sexual contact with persons as young as twelve to fourteen.~~ According to Batura, the child's mindset was more important than a child's chronological age. JB B.

8. Batura also admitted to sexually abusing the victim on multiple occasions. Batura advised that he usually assaulted her once or twice a month over a period of several months. Batura told law enforcement that one of the first times he assaulted the victim was after showing a pornographic video to her. After watching the video, Batura penetrated her vagina with his index finger. Batura also performed oral sex on the victim on several occasions.

9. Batura admitted to law enforcement to knowingly possessing the Samsung Galaxy, and knew that the Samsung Galaxy contained at least one image of child pornography as defined in 18 U.S.C. § 2256(8)(A), that involved a prepubescent minor. He further advised law enforcement that he was the sole user of the Samsung Galaxy and if prepubescent child pornography was found on the computer, it was defendant who downloaded and transferred the child pornography to the Samsung Galaxy and no one else. He further admits that the Samsung Galaxy was manufactured outside the United States and shipped to Texas.

10. Batura had Internet service and electronic devices, including the Samsung Galaxy, at his residence, which he used to download images of prepubescent child pornography. Batura used his Samsung Galaxy to, among other things, connect to the Internet and search for images and videos of child pornography. Batura searched with the intent of locating material depicting minors engaging in sexually explicit conduct, and in the course of searching for this material, Batura located, took screenshots, downloaded, and viewed numerous images containing child pornography, many of which were images of a prepubescent minor or a minor who had not attained twelve years of age.

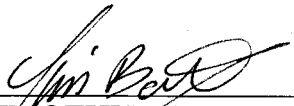
11. From on or about August 17, 2015, to May 11, 2018, Batura intentionally and knowingly possessed the Samsung Galaxy, which is referenced in the Indictment, knowing that the Samsung Galaxy contained numerous images of prepubescent child pornography, including images depicting prepubescent minors engaging in genital-genital, oral-genital, and genital-anal sexual intercourse. The images on the Samsung Galaxy were obtained by Batura from the Internet and from other means that required the use of materials that had been shipped in interstate commerce. Accordingly, the images of child pornography possessed by Batura were mailed, shipped, or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer.

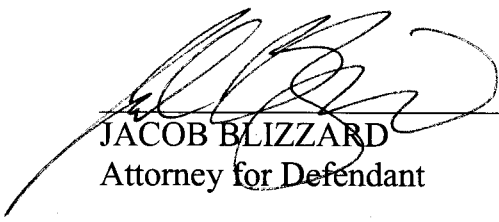
12. Batura admits that he used the Samsung Galaxy to store prepubescent child pornography that he obtained from the Internet, and that this item should therefore be forfeited to the government.


13. Batura agrees that he committed all the essential elements of the offense. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty plea to Count Two of the Indictment.

AGREED TO AND STIPULATED on this 21st day of January, 2019.

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